

House Bill 313 (AS PASSED HOUSE AND SENATE)

By: Representative Barnard of the 166<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 2 of Title 42 of the Official Code of Georgia Annotated, relating to the  
2 Board and Department of Corrections, so as to authorize the commissioner to issue warrants  
3 for the arrest of inmates; to amend Article 3 of Chapter 5 of Title 42 of the Official Code of  
4 Georgia Annotated, relating to conditions of detention generally, so as to prohibit the  
5 possession of certain depictions or photographs of victims by certain persons confined in  
6 penal institutions; to provide for exceptions; to amend Article 6 of Chapter 5 of Title 42 of  
7 the Official Code of Georgia Annotated, relating to voluntary inmate labor programs, so as  
8 to clarify that the Georgia Correctional Industries Administration has authority to administer  
9 and manage certain inmate work programs and to publicize and invite employers to  
10 participate in such inmate work programs; to prohibit employers that participate in inmate  
11 work programs from providing any thing of value to the Board of Corrections, the  
12 Department of Corrections, the Georgia Correctional Industries Administration, or any  
13 officer or employee thereof other than the payments authorized by law; to prohibit the Board  
14 of Corrections, the Department of Corrections, the Georgia Correctional Industries  
15 Administration, and any officer or employee thereof from accepting any thing of value other  
16 than the payments authorized by law from employers that participate in inmate work  
17 programs; to provide a definition; to provide a penalty; to amend Code Section 42-10-4 of  
18 the Official Code of Georgia Annotated, relating to the powers of the Georgia Correctional  
19 Industries Administration, so as to clarify that the administration has authority to administer,  
20 manage, and publicize certain inmate work programs; to provide for related matters; to  
21 provide an effective date; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 Chapter 2 of Title 42 of the Official Code of Georgia Annotated, relating to the Board and  
25 Department of Corrections, is amended by revising Code Section 42-2-8, relating to  
26 additional duties of the commissioner, as follows:

1 "42-2-8.

2 (a) The commissioner shall direct and supervise all the administrative activities of the  
3 board and shall attend all meetings of the board. The commissioner shall also make,  
4 publish, and furnish to the General Assembly and to the Governor annual reports regarding  
5 the work of the board, along with such special reports as he or she may consider helpful in  
6 the administration of the penal system or as may be directed by the board. The  
7 commissioner shall perform such other duties and functions as are necessary or desirable  
8 to carry out the intent of this chapter and which he or she may be directed to perform by  
9 the board.

10 (b) The commissioner or the commissioner's designee shall be authorized to make and  
11 execute contracts and all other instruments necessary or convenient for the acquisition of  
12 professional and personal employment services and for the leasing of real property.  
13 Subject to legislative appropriations, the commissioner shall also be authorized to make  
14 and execute any contract for the land acquisition, design, construction, operation,  
15 maintenance, use, lease, or management of a state correctional institution or for any  
16 services pertaining to the custody, care, and control of inmates or other functions as are  
17 related to the discharge of these responsibilities and to designate any person or organization  
18 with whom the commissioner contracts as a law enforcement unit under paragraph (7) of  
19 Code Section 35-8-2.

20 (c) The commissioner shall be authorized to issue a warrant for the arrest of an offender  
21 who has escaped from the custody of the department upon probable cause to believe the  
22 offender has violated Code Section 16-10-52, relating to escape from lawful confinement."

## 23 SECTION 2.

24 Article 3 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to  
25 conditions of detention generally, is amended by adding a new Code section as follows:

26 "42-5-65.

27 (a) For purposes of this Code section, the term 'inmate' means any person confined in a  
28 penal institution or confined in another facility under the jurisdiction of or subject to the  
29 authority of the board or while under the custody of officials, officers, or employees under  
30 the authority of the board.

31 (b) An inmate who is serving a sentence for a violation of Chapter 5 of Title 16 relating  
32 to crimes against the person shall be prohibited from possessing or carrying about his or  
33 her person or maintaining in any prison cell or similar area under his or her control any  
34 photograph, picture, or similar depiction of any victim of the offense for which he or she  
35 is serving where such photograph, picture, or depiction was a part of the criminal  
36 investigation, prosecution, or evidence leading to the inmate's conviction.

(c) An inmate who is serving a sentence for a violation of Chapter 6 of Title 16 relating to sexual offenses shall be prohibited from possessing or carrying about his or her person or maintaining in any prison cell or similar area under his or her control any photograph, picture, or similar depiction of any victim of the offense for which he or she is serving.

(d) A person acting in violation of this Code section shall be guilty of a misdemeanor.

(e) This Code section shall not apply where the photograph or picture is needed for use in any civil or criminal proceeding provided that the inmate receives permission by a court having jurisdiction over the proceeding and only for so long as and in such manner as directed by court order.

(f) Nothing in this Code section shall limit further restrictions or limitations on the possession of contraband or victim photographs by persons confined or under the custody of the board as deemed appropriate by the board."

### SECTION 3.

Article 6 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to voluntary inmate labor programs, is amended by revising subsection (a) of Code Section 42-5-120, relating to rules and regulations of the Board of Corrections, as follows:

"(a) The board is authorized to issue and promulgate rules and regulations for programs of voluntary labor by inmates for privately owned profit-making employers to produce goods, services, or goods and services for sale to public and private purchasers. Such rules and regulations shall be designed to meet the published requirements of the Prison Industry Enhancement Certification Program authorized by 18 U.S.C. Section 1761 and federal regulations and to provide other appropriate conditions and limitations. Such rules and regulations may provide for administration and management of such work programs by the department and the Georgia Correctional Industries Administration."

### SECTION 4.

Said article is further amended by revising Code Section 42-5-123, relating to compensation by employers for administrative and other costs to the state, as follows:

"42-5-123.

(a) The board shall ensure by rules or by contractual provisions that the privately owned profit-making employers compensate the department and the Georgia Correctional Industries Administration for any administrative costs or other costs incurred by the department or the administration for the operation of the program or programs. The board shall ensure by rules or by contractual provisions that the department and the administration are compensated for use of any employees of the department or the administration, use of any space owned by or under the control of the department or the

administration, or use of any other resources of the department or the administration in the operation of the program or programs.

(b) Employers that participate in inmate work programs under this article shall be prohibited from providing any thing of value to the Board of Corrections, the Department of Corrections, the Georgia Correctional Industries Administration, or any officer or employee thereof other than the payments authorized by this Code section. The Board of Corrections, the Department of Corrections, the Georgia Correctional Industries Administration, and any officer or employee thereof shall be prohibited from accepting any thing of value, other than the payments authorized by this Code section, from employers that participate in inmate work programs under this article. As used in this Code section, the term 'thing of value' shall have the same meaning as that term is defined in Code Section 16-10-2."

#### SECTION 5.

Said article is further amended by revising Code Section 42-5-124, relating to publicizing and inviting participation in voluntary inmate labor programs, as follows:

"42-5-124.

Following the issuance and promulgation of rules and regulations, the department ~~is~~ and the Georgia Correctional Industries Administration are authorized to publicize the program and invite employers to participate. The department shall rely upon the Georgia Department of Labor for determining whether inmates would be displacing other workers, whether labor shortages exist, and the prevailing local wage for work to be done by inmates. The Georgia Department of Labor is authorized to provide such determinations to the department."

#### SECTION 6.

Code Section 42-10-4 of the Official Code of Georgia Annotated, relating to the powers of the Georgia Correctional Industries Administration, is amended by replacing "; and" with ";" at the end of paragraph (11), by replacing "." with ";" and" at the end of paragraph (12), and by adding a new paragraph as follows:

"(13) As provided for in Article 6 of Chapter 5 of Title 42 and as directed by the rules and regulations promulgated by the board, to administer and manage volunteer inmate work programs and to publicize and invite employers to participate in such programs."

#### SECTION 7.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

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**SECTION 8.**

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All laws and parts of laws in conflict with this Act are repealed.